



Joan Marsh
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February 5, 2003

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: Notice of Written Ex Parte Communication, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338, 96-98 and 98-147

Dear Ms. Dortch:

The threshold issue that the Commission must address in this proceeding before determining whether particular elements must be made available is the proper definition of the term "impairment" under section 251(d)(2) of the '96 Act. The test of impairment that the Commission adopts will govern the inquiry as to whether lack of access to particular elements in fact impairs competitive carriers in their ability to provide the services that they seek to offer, and thus whether particular elements need be made available.

Attached is a summary of AT&T's position on the factors that, if present, would constitute "impairment" as that term is used in section 251(d)(2), the definition for impairment that should govern the Commission's analysis and be the basis for subsequent findings by State commissions, and a description of the role that the State commissions should play in implementing the impairment definition in the future.

Consistent with Commission rules, I am filing one electronic copy of this notice and request that you place it in the record of the above-referenced proceedings.

Sincerely,

A handwritten signature in black ink, appearing to be 'JM' followed by a long horizontal line.

Joan Marsh

cc: William Maher
Jeff Carlisle
Michelle Carey
Brent Olson
Rich Lerner
Scott Bergmann
Thomas Navin
Jeremy Miller
Rob Tanner
Simon Wilkie
Don Stockdale